

**BOARD OF COUNTY COMMISSIONERS
WASHINGTON COUNTY, MINNESOTA**

RESOLUTION NO. 2002-128

DATE October 8, 2002

DEPARTMENT Survey/Land Management

EMOTION BY COMMISSIONER Abrahamson

SECONDED BY COMMISSIONER Peterson

**RESOLUTION APPROVING TEXT AMENDMENTS TO
THE WASHINGTON COUNTY DEVELOPMENT CODE
CHAPTER ONE, SECTION 11 - OTHER PERMITS; AND
CHAPTER TWO, PART 3 - ZONING REGULATIONS - PERFORMANCE STANDARDS
ORDINANCE NO. 162**

WHEREAS, Washington County is authorized to carry on County planning and zoning activities in the unincorporated areas of the County pursuant to MINN. STAT. CHAPT. 394; and

WHEREAS, the Washington County 2015 Comprehensive Plan was adopted by the Washington County Board of Commissioners on April 22, 1997 and became effective October 1, 1997 as Washington County Ordinance No. 124; and

WHEREAS, MINN. STAT. § 473.865 requires counties to adopt the official controls described in their Comprehensive Plan so as to implement the Comprehensive Plan; and

WHEREAS, the Washington County Development Code was adopted by the Washington County Board of Commissioners and became effective on October 20, 1997 as Washington County Ordinance No. 127; and

WHEREAS, a request has been submitted by the Washington County Department of Transportation and Physical Development, Land Management/Land Survey Division to amend the Washington County Development Code as a result of County Board workshops with township representatives; and

WHEREAS, the Washington County Planning Advisory Commission held several public hearings on the ten, proposed amendments, as follows: Amendments to Chapter One, Section 2.1 on August 27, 2002, Chapter One, Section 11; Chapter Two, Part 3, Section 4.10(3)(H); Chapter Two, Part 3, Section 4.10(4)(A)(1), (2), (3), (4), and (5); Chapter Two, Part 3, Section 1.2(1) and (3); Chapter Two, Part 3 to add Section 6, on May 28, 2002 and August 27, 2002, and amendments to Chapter Two, Part 3, Section 2.37, 6(B), 9(D), (10) and add 9(O) on December 11, 2001, March 26, 2002 and August 27, 2002; and

WHEREAS, the Washington County Planning Advisory Commission recommended for approval the above listed amendments on August 27, 2002; and

WHEREAS, on October 8, 2002, the Washington County Board of Commissioners conducted a public hearing on the request and to consider the amendments to the Washington County Development Code as required by MINN STAT. § 375.51; and

WHEREAS, the record of the Washington County Board of Commission public hearings consist of the minutes of both the Washington County Board and the Washington County Planning Advisory Commission meetings, staff reports, correspondence, a presentation by the Washington County Department of Transportation and Physical Development and comments from the public; and

WHEREAS, the proposed amendment to Chapter One, Section 11.4 which will require township (local) approval or evidence why local approval is not necessary for application of land use in order to have an official township decision on the request prior to the County accepting an application; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 4.10(3)(H), Open Space performance standards which would delete the entire provision that requires a 300 foot separation between adjacent residential property would allow for greater creativity for new open space design subdivisions; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 4.10(4)(A)(1), 2), (3), (4) and (5), which would provide for the reduction of required open space in open space design subdivisions from 60 percent to 50 percent to be consistent with local units of government ordinances in order to provide for developments that meet both County and township regulations; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 1.2(1) and (3), which would discontinue the regulation of the number and size of accessory buildings, except within the Shoreland and St. Croix River Districts to allow local control of this issue; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, ADD Section 6, which would provide for regulations of Wind Energy Conversion Systems to protect the public health and safety of Washington County residents and protect the scenic views of Washington County; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 2.37, 6(B) which would require financial guarantees of wireless communication antennas and towers in the event of revocation of a permit and the tower and all accessory structures must be removed and the site restored to its original condition to ensure any abandoned towers are removed so as to protect the health, safety and scenic views of Washington County residents, and

WHEREAS, the proposed amendment to Chapter One, Section 2.1, Definitions, to add "stealth type" design which would define the terms as used in Chapter Two, Part 3, Section 2.37; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 2.37, 9(D), which would enable the Planning Advisory Commission, in addition to the Zoning Administrator, to request a tower be of stealth type design for the purpose of protecting scenic views of Washington County; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 2.37, by adding Section 9(O) to reflect the Washington County Zoning Administrator be notified in writing of any change in ownership of a wireless communication facility, for the purposes facilitating notification, correspondence and ensuring permit compliance with the actual owner of the tower; and

WHEREAS, the proposed amendment to Chapter Two, Part 3, Section 2.37, by adding Section (10) to requires written documentation from the owner of the nearest tower(s) showing that the applicant has contacted the other tower owners to determine if new antennas can be added to the existing towers(s) in the area to limit the proliferation of towers so as to preserve the views of Washington County.

NOW THEREFORE, BE IT RESOLVED, that based upon the hearing record, the Washington County Board of Commissioners hereby adopts the proposed amendments to the Washington County Development Code as fully set forth in Exhibit A, which is attached hereto and incorporated herein.

BE IT FURTHER RESOLVED, that the Washington County zoning Administrator is directed to make the changes set forth in the Washington County Development Code and cause the same to be published and codified according to law and from and after the effective data of Ordinance 162.

ATTEST::
Molly O'Rourke
COUNTY ADMINISTRATOR

Bill Pulkrabek
CHAIRMAN, COUNTY BOARD

	YES	NO
ABRAHAMSON	X	
HEGBERG	X	
PETERSON	X	
PULKRABEK	X	
STAFFORD	X	

**EXHIBIT A
AMENDMENTS TO
THE WASHINGTON COUNTY DEVELOPMENT CODE**

Amend Chapter One, Section 2.1 by adding the following definition:

Stealth Tower Design - A tower designed to look like something else in the built environment. Examples include: silo, tree, utility pole, bell tower, fire tower, flagpoles, and monuments.

Amend Chapter One, Section 11 Other Permits by adding Section 11.4 as follows:

11.4 Township Approval - Prior to accepting an application for rezoning/comprehensive plan amendment, a conditional use permit or variance and in order for an application to be complete, approval must be secured from the township or evidence must be presented indicating approval from the local township is not needed.

Amend Chapter 2, Part 3, Open Space Design Developments, Section 4.10 (3) (H) Performance Standards by deleting this section in its entirety:

Neighborhoods shall be separated from adjacent residential property by a clear boundary, with a minimum width of 300 feet, comprised of two or more of the following elements: street pattern, marked topographical changes, landscape screening, drainageways, ponds, wetlands, streams, greenways and woodlands.

Amend Chapter 2, Part 3, Section 4.10(4)(A)(1)(2)(3)(4) & (5)

so as to reduce the open space required in an open space design subdivision from 60 percent to 50 percent.

Amend Chapter 2, Part 3, Section 1.2(1) & (3)

as follows so that the County Ordinance would no longer regulate the number and size of accessory buildings except in the Shoreland and St. Croix River Districts:

1.2 Accessory Structures

(1) Required Permits. A building permit is required for all accessory structures except agricultural buildings on a farm as defined in Minnesota Statute 16B.61. A certificate of compliance is required for all agricultural buildings and accessory structures ~~over 1,000 square feet in size~~, ***in the Shoreland Management and St. Croix Riverway Districts.***

(3) ~~Agricultural (AP, A-1, A-2, A-4) and Residential (RR, SFS, RS, TZ) Districts.~~ ***The following additional standards apply to all land within these districts: In Shoreland Districts and the St. Croix Riverway District, the following standards apply:***

(A) On parcels less than 2.5 acres, one accessory structure is allowed. On parcels greater than 2.5 acres and less than 20 acres, a maximum of two accessory

structures are allowed. On parcels greater than 20 acres, there is no limit on the number of accessory structures, provided they are an agricultural building. One single story shed of 120 square feet or less is permitted in addition to the accessory structures. All accessory structures shall be limited to one story in height.

(B) The permitted size of accessory structures are as follows:

Lot Area	Total Square Footage
Parcels less than 1 acre	720 sq. ft.
1 acre - 2.49 acres	1,000 sq. ft.
2.5 acres - 5 acres	2,000 sq. ft.
5.01 acres - 20 acres	2,500 sq. ft.
20.01+ acres	*unlimited

* Provided they are agricultural buildings.

Outside of the Shoreland District and the St. Croix Riverway District, the size and number of accessory buildings shall be regulated in accordance with the local unit of government standards.

The remaining provisions of Section 1.2 shall remain the same.

Amend Chapter 2, Part 3, Section 2.37 Wireless Communication Antennas and Towers as follows:

Amend Section 6(B) by adding the following language:

In the event of revocation of a permit, the tower and all accessory structures must be removed and the site restored to its original condition within 120 days. A financial guarantee shall be posted with the Washington County Zoning Administrator to assure removal of the tower and restoration of the site. If after order by the Washington Counter Zoning Administrator, the owner fails to remove the tower, Washington County will complete the removal of the tower and restore the site and use the financial guarantee for costs incurred by Washington County for removal of the tower and site restoration.

Amend Section 9(D) as follows:

The tower location shall provide the maximum amount of screening for off-site views of the facility. The Zoning Administrator or Planning Advisory Commission reserves the right to require creative design measures to camouflage facilities by integrating them with existing buildings and among other existing uses or to require the tower to be of a stealth type design. Existing on-site vegetation shall be preserved to the maximum extent practicable. Stealth type design may be required when the County finds such a design would increase the compatibility in a certain area; protect the scenic value of a particular area and/or is a furtherance of a goal or policy contained in the Washington Count Comprehensive Plan.

Amend Section 9 by adding the following:

(O)The Washington County Zoning Administrator shall be notified in writing of any change in ownership of a wireless communication facility. All conditions imposed as part of the original permit approval shall not be affected by a change in ownership.

Amend Section 10 by adding the following:

(G) The name, address, and telephone number of the owner(s) of the nearest tower(s) shall be submitted along with written documentation showing the applicant has contacted these other tower owners to determine if the new antennas proposed can be added to the existing tower(s) in the area.

Amend Chapter 2, Part 3 of the Washington County Development Code by adding the following Section 6.0:

6.0 Wind Energy Conversion Systems (WECS)

6.1 Purpose and Intent

The purpose is to establish regulations for wind energy conversion systems. A wind energy conversion system is defined as one (1) tower with rotors and motors with one conversion generator.

- 1) Required Permits - A conditional use permit is required for a wind energy conversion system in all zoning district.
- 2) Other Requirements - Wind energy conversion systems shall comply with all rules and regulations of Federal, State, County, and local agencies.
- 3) Performance Standards - Wind energy conversion systems must comply with the following standards:
 - A. The parcel on which a wind energy conversion system is proposed to be located must be at least ten acres in size.

- B. One wind energy conversion system is permitted on a parcel.
- C. The maximum at height of a wind energy conversion system shall be 100 feet. The system height shall be measured from the base of the tower to the highest possible extension of the rotor.
- D. No lights, flashers, reflectors, or any other illuminated devices shall be affixed to the wind energy conversion system.
- E. The wind energy conversion system shall be located so as to have the least impact on adjoining parcels.
- F. No wind energy conversion system shall be located within any required setback and shall have a minimum setback from any property line a distance equal to the height of the tower.
- G. Rotors shall not exceed 26 feet in diameter and shall have a clearance of 30 feet over any tree or structure. Each wind energy conversion system shall be equipped with both a manual and automatic braking device capable of stopping the wind energy conversion system in high winds (40 MPH or greater).
- H. All State, County, and local noise standards must be met. Applicable electrical permits/inspections must be obtained.
- I. To prevent unauthorized climbing, wind energy conversion system towers must comply with one of the following provisions:
 - 1) Tower climbing apparatus shall not be located within 12 feet of the ground.
 - 2) A locked anti-climb device shall be installed on the tower.
 - 3) A protective fence at least 6 feet in height.
- J. The color of the structure shall be either gray or off-white.
- K. In the event of permit revocation or if the wind generator is no longer used, the wind generator must be removed and the site restored to its original condition within 120 days.